



County of Los Angeles  
**CHIEF ADMINISTRATIVE OFFICE**

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DAVID E. JANSSEN  
Chief Administrative Officer

January 9, 2007

The Honorable Board of Supervisors  
County of Los Angeles  
383 Kenneth Hahn Hall of Administration  
500 West Temple Street  
Los Angeles, CA 90012

Dear Supervisors:

**ORDINANCE AMENDING LOCAL SMALL BUSINESS  
ENTERPRISE PREFERENCE PROGRAM  
(ALL SUPERVISORIAL DISTRICTS)  
(3 VOTES)**

**IT IS RECOMMENDED THAT YOUR BOARD:**

Approve an Ordinance amending Title 2, Chapter 2.204.070 of the Los Angeles County Code, Local Business Enterprise Preference Program, Exclusions, to ensure that the preference is not in conflict with the uniform administrative requirements for grants and cooperative agreements and sub-awards to state, local and tribal governments under the Code of Federal Regulations (CFR), also known as the "grants management common rule."

**PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION**

The Ordinance amends the exclusions provision of the Local Small Business Enterprise Preference Ordinance to reflect that the preference will not be allowed for County contracts and purchases funded in whole or in part by the Federal government, except in those instances where application of the local small business preference is determined by the County to be either permitted or required by applicable Federal statutes or regulations.

Our Office has determined, in consultation with County Counsel, that a provision in the County's Small Business Enterprise Preference Ordinance is currently in conflict with the uniform administrative requirements for grants and cooperative agreements and sub-awards to state, local and tribal governments under the CFR, also known as the

Board of Supervisors  
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First District

YVONNE B. BURKE  
Second District

ZEV YAROSLAVSKY  
Third District

DON KNABE  
Fourth District

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Fifth District

"grants management common rule." Most Federal departments and agencies have codified the rule into their regulations. The rule requires grantees and sub-grantees to *"conduct procurements in a manner that prohibits the use of statutory or administratively imposed in-state or local geographical preferences in the evaluation of bids or proposals, except in those instances where applicable federal statutes expressly mandate or encourage geographical preferences."*

The County's Small Business Enterprise (SBE) preference program is a race and gender-neutral program designed to enhance purchasing and contracting opportunities for local small businesses within the County. The program's priorities were developed to promote and foster inclusiveness and economic development, as well as ongoing evaluation to assure all businesses, including local small businesses, are provided equal opportunities in County purchasing and contracting activities (County Code Section 2.204.020).

The SBE preference defines a local small business enterprise as a business having its principal office in the County for at least one year and as being certified as a small business by the State of California (County Code Section 2.204.030). It requires that the County provide a price or scoring preference to bids and proposals from qualified SBEs (County Code Section 2.204.060). Although a qualified SBE may not have the lowest bid or the highest score, it could win the contract award simply because of the geographical preference. The Ordinance excludes its application when there is a conflict between Federal funding requirements that minority or women business enterprises participate in contracting opportunities, but is silent as to any Federal prohibition of geographical preferences (County Code Section 2.204.070(E)).

The recommended action is necessary at this time because applying the small business preference may place affected departments at the risk of noncompliance with the grants management common rule; conversely, not applying the preference causes departments to violate the County's Ordinance.

### **Implementation of Strategic Plan Goals**

Approval of the amended ordinance will further the County's Strategic Plan Goal of Organizational Effectiveness by ensuring that service delivery systems are efficient, effective and goal-oriented.

### **FISCAL IMPACT/FINANCING**

There is no significant fiscal impact from this action.

**FACTS AND PROVISIONS/LEGAL REQUIREMENTS**

This Ordinance amendment has been approved as to form by County Counsel.

**IMPACT ON CURRENT SERVICES (OR PROJECTS)**

The Ordinance amendment will enhance existing contracting and purchasing policies and procedures while providing the appropriate guidance and direction necessary to reach decisions that are consistent with your Board's direction.

Respectfully submitted,



DAVID E. JANSSEN  
Chief Administrative Officer

DEJ:MKZ  
DS:VLA:pg

Attachment

c: All Department Heads  
Administrative Deputies (via electronic mail)  
Contract Manager's Network (via electronic mail)

## ANALYSIS

This ordinance amends Title 2 – Administration, of the Los Angeles County Code by:

- Amending the local small business preference to exclude contracts and purchases funded by the federal government unless permitted or required by federal law.

RAYMOND G. FORTNER, JR.  
County Counsel

By



KATHY BRAMWELL  
Senior Deputy County Counsel  
Social Services Division

KB:dt

10/31/06 (requested)

11/22/06 (revised)

**ORDINANCE NO. \_\_\_\_\_**

An ordinance amending Title 2 - Administration of the Los Angeles County Code, relating to the local small business preference program and its application to purchases and contracts funded by the federal government.

The Board of Supervisors of the County of Los Angeles ordains as follows:

**SECTION 1.** Section 2.204.070 is hereby amended to read as follows:

**2.204.070 Exclusions.**

The local small business enterprise preference shall not be given for the following county contracts and purchases:

- A. National contracts established for the purchase of equipment and supplies for and by the National Association of Counties, U.S. Communities Government Purchasing Alliance, or any similar or related group purchasing organization.
- B. A revolving fund (petty cash) purchase pursuant to the Los Angeles County Fiscal Manual, Section 4.40 or a successor provision.
- C. A purchase card purchase pursuant to the Los Angeles County Purchasing Policy Manual, Section P-2810 or a successor provision.
- D. A non-agreement purchase with a value of less than \$5,000.00 pursuant to the Los Angeles County Purchasing Policy Manual, Section A-03000 or a successor provision.
- E. Any contract or purchase, funded in whole or in part by the federal government, ~~to the extent of any conflict between the requirements imposed by the~~

~~federal government relating to participation in a contract by a minority or women  
business enterprise as a condition of the receipt of the federal funds~~ except in those  
instances where application of the local small business enterprise preference is  
determined by the county to be either permitted or required by applicable federal  
statutes or regulations.

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